

MHCC050068132022



**IN THE COURT OF SESSIONS AT DINDOSHI
(BORIVALI DIVISION), GOREGAON, MUMBAI**

ANTICIPATORY BAIL APPLICATION NO. 2046 OF 2022

IN

(C.R. No. 2364 of 2022 of Sakinaka Police Station, Mumbai)

1) Mr. Abhishek Jagannath Verma,
Age : 26 yrs. Occupation : service,
R/o : 4/A, Sameer Society,
Behind Hindi Bal Vidya Mandir School,
Pipeline, Singh Wadi, Asalpha Village,
Barve Nagar, Mumbai 400 084

2) Mr. Amar Bahadur Nanhu Verma,
Age : 52 yrs., Occupation : business,
R/o : Subhash Nagar, Kulkarniwadi,
Ganesh Galli, Near Koyla Shop,
Asalpha Village, Ghatkopar (W),
Mumbai : 400 084

..Applicants

Vs

The State of Maharashtra
(through Sakinaka Police Station)

..Respondents

Ld. Adv. Palekar, for the applicants.
Ld. APP P.K. Mahajan, for the State.
Ld. Adv. Dheeraj Dwivedi, for the intervenor.

**CORAM : H.H. THE ADDITIONAL SESSIONS JUDGE
R.M. MISHRA
(C.R.NO.4)**

DATE : 11th January, 2023

ORAL ORDER

This is an application for the grant of anticipatory bail under section 438 of Cr.P.C., in connection with C.R. No. 2364 of 2022, registered with Sakinaka Police Station for the offences punishable under sections 326, 504, 506 read with section 34 of the Indian Penal Code.

2 Perused application and say.

3 On 18/12/2022, at the instance of one Babulal Shipahi Pandey, aforesaid offence came to be registered.

As can be seen from the FIR, the informant has purchased two gunthas land from Arun Parab. However, accused Amar Verma had put soil in the said land. On the date of the incident when Arun Parab came in the shop of the informant, he was requested by the informant to get the said land vacated. Therefore, Arun Parab asked the accused Amar Verma to pick the soil in the said land. The informant and Arun Parab tried to give understanding to Amar Verma. However, he started quarreling with them and called his brother Ramsurat Verma and his friends Ravi Verma and Abhishek Verma on the spot. Accused Ravi Verma dealt a blow of iron pipe on the left hand of the informant and also caused injury on the nose and lip of Tushar Parab by means of iron rod. The informant sustained fracture injury on his left hand due to the said assault. Accordingly, the report came to be lodged in the police station.

4 By this application, the applicants no. 1 and 2 have contended that they have been implicated in false case by making false allegations.

Entire complaint is false. Nothing is to be recovered from the applicants. There is property dispute regarding open land between the parties and several litigations are going on between them. The applicant no. 1 was not present on the day of the incident when the quarrel took place. The police has also recovered CCTV footage of the said incident which clarified that the applicants have been falsely implicated. One of co-accused Ramsurat Verma was arrested by the police and he has been released on bail by the learned Metropolitan Magistrate. Co-accused Ramsurat Verma has also lodged FIR in respect of the said incident. On that basis Crime No. 2365 of 2022 came to be registered under sections 143, 147, 149 and 307 of the Indian Penal Code, therefore, this counter case is filed against the applicants. The applicants are ready to abide the conditions imposed by the Court. The applicants are not having earlier criminal antecedent to their credit. The applicants, therefore, prayed for their release on anticipatory bail.

5 Application is resisted by the prosecution vide say at Exh. 03 mainly on the ground that there is possibility of pressurizing the witnesses and repeating the offence by the applicants if they are released on bail. The offence is serious in nature. It is thus, contended that the application is liable to be rejected.

6 Intervenor application Exh. 04 is also filed by other side resisting the application to release the applicants on anticipatory bail.

7 After considering the submissions of learned advocate for the applicants, intervenor and learned APP, I have also gone through the case diary. It reveals that in respect of the incident dtd. 18/12/2022, counter report came to be lodged from both sides. On the basis of attending circumstances, it reveals that some land dispute is going on between informant Babulal Pandey and the applicant no.2 and the said land was purchased by the informant from Arun Parab. It reveals that on the count of getting vacated the said land, quarrel had taken place between the parties. Having regard to the incident dtd. 18/12/2022, it reveals that the main role is attributed to the applicant no.2 who raised quarrel with the informant and Arun Parab and thereafter, he has called other co-accused on the spot. However, so far as the role of the applicant no.1 is concerned, he is nowhere shown to be participated in the said incident of beating. Whatever allegations made are pertaining to the applicant no.2 and co-accused Ravi Verma. Therefore, considering these circumstances, in my view, to the extent of the applicant no. 1 only prima-facie case is made out for grant of anticipatory bail. If certain conditions are imposed while releasing the applicant no.1 on bail, in my view, purpose will be served. In this view of the matter, I proceed to pass following order :

ORDER

- 1) The application under section 438 of the Code of Criminal Procedure for the grant of anticipatory bail is partly allowed.
- 2) The application of applicant no. 2) **Amar Bahadur Nanhu Verma**, is hereby rejected.

3) In the event of arrest of the applicant no. 1) **Abhishek Jagannath Verma**, in connection with C. R. No. 2364 of 2022, registered with Sakinaka Police Station for the offences punishable under sections 326, 504, 506 read with section 34 of the Indian Penal Code, he be released on bail, on his executing PR Bond of Rs. 15,000/- (Rupees Fifteen Thousand Only), with one solvent surety in the like amount, on the following conditions :

a) Applicant no. 1 shall remain present in the police station as and when called by the Investigating Officer.

b) Applicant No. 1 shall file his proof of residence in support of the proof of any of his blood relative to avoid the possibility of his absconding.

c) Applicant no. 1 shall not attempt to pressurize prosecution witnesses in any manner nor shall tamper with the evidence of prosecution in any manner.

4) Concerned Police Station be informed accordingly.

5) Anticipatory Bail Application No. 2046 of 2022 is hereby disposed of accordingly.

Sd/-

(R.M. MISHRA)

Additional Sessions Judge,
Borivali Div.,Dindoshi, Mumbai

Dt. 11/01/2023

Dictated on : 11/01/2023
Transcribed on : 12/01/2023
Checked on : 12/01/2023
Signed on : 12/01/2023

CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER.”

12/01/2023 at 5.50 p.m.
 UPLOAD DATE AND TIME

Mrs. S.B. Vichare
 NAME OF STENOGRAPHER

Name of Judge (with Court room no.)

HHJ R.M. Mishra, City Civil & Sessions Court, Borivali Div., Dindoshi, Mumbai (C.R.No. 04)

Date of Pronouncement of JUDGEMENT/ORDER

11/01/2023

JUDGEMENT/ORDER signed by P.O. on

12/01/2023

JUDGEMENT/ORDER uploaded on

12/01/2023